



**U.S. Citizenship
and Immigration
Services**

(b)(6)

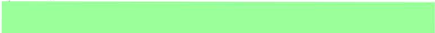



DATE: **FEB 12 2013**

OFFICE: TEXAS SERVICE CENTER

FILE: 

IN RE:

Petitioner: 

Beneficiary: 

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,



Ron Rosenberg
Acting Chief, Administrative Appeals Office

(b)(6)

DISCUSSION: The Director, Texas Service Center, (director) denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(I).

The petitioner describes itself as a software development business. It seeks to permanently employ the beneficiary in the United States as a senior software engineer pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2). As required by statute, an ETA Form 9089, Application for Permanent Employment Certification, approved by the Department of Labor (DOL), accompanied the petition. Upon reviewing the petition, the director determined that the beneficiary did not satisfy the minimum level of education stated on the labor certification. Specifically, the director determined that the beneficiary did not possess an advanced degree.

Effective March 4, 2010, the regulation at 8 C.F.R. § 292.4(a) requires that a new Form G-28 "must be filed with an appeal filed with the [AAO]." 8 C.F.R. § 292.4(a) further requires that the Form G-28 "must be properly completed and signed by the petitioner, applicant or respondent to authorize representation in order for the appearance to be recognized by DHS."

The Form I-290B, Notice of Appeal or Motion, was filed on October 20, 2011, by [REDACTED], Attorney at Law. However, the appeal was not accompanied by a properly executed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, signed by both the attorney and by an authorized official of the petitioning entity.

On November 1, 2011, the director issued a notice to the individual who filed the appeal, advising him of the necessity to submit a properly executed Form G-28 pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(2) and its subclauses. The individual who filed the appeal was advised that the failure to submit a properly executed Form G-28 "may result in the appeal being considered improperly filed." As of this date, no response has been received. There is no evidence in the record that the petitioner consented to the filing of the appeal.

In addition, the AAO notes that on the Form I-290B, the petitioner indicated that a brief and/or additional evidence would be submitted within 30 days. On the Form I-290B, Part 3, no statement was provided as the basis for the appeal. More than 15 months have elapsed and no brief or additional evidence have been received. Thus, even if the appeal were properly filed, it would be summarily dismissed as the petitioner has failed to identify specifically any erroneous conclusion of law or statement of fact for the appeal. 8 C.F.R. § 103.3(a)(1)(v).

As the appeal was not properly filed, and it is unclear whether or not the petitioner consented to having an appeal filed on its behalf, it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(I).

ORDER: The appeal is rejected.